

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 23RD JULY 2007 / 1ST SRAVANA 1929

WP(C).No. 22523 of 2007(F)

PETITIONER:

P.K.SAINABHA, PROPRIETRIX,
'BAPPUTTY STORES', M.M.19/8, UP HILL,
MALAPPURAM.

BY ADV. SRI.R.RAJESH KORMATH

RESPONDENTS:

THE COMMERCIAL TAX OFFICER,
VAT CIRCLE, MANJERI, MALAPPURAM DISTRICT.

BY ADV. SHRI.C.K.GOVINDAN, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 22523 of 2007

Dated, this the 23rd day of July, 2007

J U D G M E N T

Petitioner is declined registration under Kerala Value Added Tax Act for the reason that she has not produced the rent agreement with the building owner. It is submitted that petitioner's husband had conducted a business in the same building for long and he had sales tax registration. However, after the death of petitioner's husband, she is continuing the business. Registration under KVAT Act is declined for the reason that the building owner is in Court seeking eviction of the tenant. Rent agreement is not renewed and produced before the Commercial Tax Authorities. Petitioner submitted that even though eviction proceedings are pending in Court, there is stay against eviction and therefore, her possession is lawful. Learned counsel for the petitioner relied on the Division Bench decision of this Court, in **Marimuthu & Others Vs. DGP & Others**, reported in 1992 (2) KLJ 288, in support of his claim that petitioner is entitled to registration without consent from land owner.

2. So long as petitioner is allowed to occupy the building and is able to carry on business, petitioner is certainly entitled to

registration under KVAT Act. However, since petitioner is not the owner of the building, security has to be separately demanded for granting registration. Moreover, as and when petitioner is evicted from the premises, registration has to be cancelled unless alternate business premises is taken over by the petitioner. In the circumstances, writ petition is disposed of directing respondents to grant registration to the petitioner after collecting security and on petitioner complying with the formalities except production of rent agreement within a period of one month from the date of production of a copy of this judgment by the petitioner. I make it clear that the direction given to grant registration does not in any way affect the right of the parties under the litigation pertaining to eviction.

(C.N.RAMACHANDRAN NAIR, JUDGE)